

AMENDED IN ASSEMBLY APRIL 21, 2003

AMENDED IN ASSEMBLY APRIL 8, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1476

Introduced by Assembly Member Chavez

February 21, 2003

~~An act to amend Sections 5019.65, 5097.94, 5097.96, and 21083.9~~
An act to amend Section 5019.65 of the Public Resources Code, relating to public resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1476, as amended, Chavez. State park system: ~~environmental quality~~ *state reserves*.

~~(1) Under~~

Under existing law, state reserves consist of areas embracing outstanding natural or scenic characteristics of statewide significance.

This bill would also designate, as state reserves, areas containing outstanding cultural resources of statewide significance. The bill would describe these areas as places that contain historic or prehistoric structures, villages, or settlements, archaeological features, ruins, artifacts, inscriptions made by humans, burial grounds, landscapes, hunting or gathering sites, or similar evidence of past human lives or cultures. *The bill would require, within state cultural reserves, the highest level of resource protection be sought, and that management actions be consistent with the preservation of cultural resources.*

~~(2) Under existing law, the Native American Heritage Commission has various powers and duties with regard to Native American sites and sacred places.~~

~~This bill would make technical, nonsubstantive changes in those provisions.~~

~~(3) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on any project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds the project will not have that effect. CEQA also requires a lead agency to call at least one scoping meeting for a proposed project that may affect highways or other facilities under the jurisdiction of the Department of Transportation, and for a project of statewide, regional, or areawide significance.~~

~~This bill would make technical, nonsubstantive changes in those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5019.65 of the Public Resources Code
2 is amended to read:

3 5019.65. State reserves consist of areas embracing
4 outstanding natural or scenic characteristics or areas containing
5 outstanding cultural resources of statewide significance. State
6 reserve units may be established in the terrestrial or nonmarine
7 aquatic (lake or stream) environments of the state and shall be
8 further classified as one of the following types:

9 (a) State natural reserves, consisting of areas selected and
10 managed for the purpose of preserving their native ecological
11 associations, unique faunal or floral characteristics, geological
12 features, and scenic qualities in a condition of undisturbed
13 integrity. Resource manipulation shall be restricted to the
14 minimum required to negate the deleterious influence of man.

15 Improvements undertaken shall be for the purpose of making
16 the areas available, on a day use basis, for public enjoyment and
17 education in a manner consistent with the preservation of their
18 natural features. Living and nonliving resources contained within



state natural reserves shall not be disturbed or removed for other than scientific or management purposes.

(b) State cultural reserves, consisting of areas selected and managed for the purpose of preserving and protecting the integrity of places that contain historic or prehistoric structures, villages, or settlements, archaeological features, ruins, artifacts, inscriptions made by humans, burial grounds, landscapes, hunting or gathering sites, or similar evidence of past human lives or cultures. These areas may also be places of spiritual significance to California Native Americans. Within state cultural reserves, the highest level of resource protection shall be sought. Improvements may be undertaken for the purpose of providing public access, enjoyment, and education, and for cultural resource protection. Improvements made for the purpose of cultural resource protection shall take into account the possible need for access to the site for ceremonial or spiritual purposes. Living and nonliving resources contained within state cultural reserves may be used for ceremonial or spiritual purposes, consistent with other laws, and if the use is not harmful to threatened or endangered species or to the cultural resources intended for protection by this designation. Removal of natural resources from a site for ceremonial or spiritual purposes shall be done in accordance with any established permit process and any other law. Management actions shall be consistent with the preservation of cultural resources.

~~SEC. 2. Section 5097.94 of the Public Resources Code is amended to read:~~

~~5097.94. The commission has the following powers and duties:~~

~~(a) To identify and catalog places of special religious or social significance to Native Americans, and known graves and cemeteries of Native Americans on private lands. The identification and cataloguing of known graves and cemeteries shall be completed on or before January 1, 1984. The commission shall notify landowners on whose property these graves and cemeteries are determined to exist, and shall identify the Native American group most likely descended from those Native Americans who may be interred on the property.~~

~~(b) To make recommendations relative to Native American sacred places that are located on private lands, are inaccessible to Native Americans, and have cultural significance to Native~~

~~Americans for acquisition by the state or other public agencies for the purpose of facilitating or assuring access thereto by Native Americans.~~

~~(c) To make recommendations to the Legislature relative to procedures that will voluntarily encourage private property owners to preserve and protect sacred places in a natural state and to allow appropriate access to Native American religionists for ceremonial or spiritual activities.~~

~~(d) To appoint necessary clerical staff.~~

~~(e) To accept grants or donations, real or in kind, to carry out the purposes of this chapter.~~

~~(f) To make recommendations to the Director of Parks and Recreation and the California Arts Council relative to the California State Indian Museum and other Indian matters touched upon by department programs.~~

~~(g) To bring an action to prevent severe and irreparable damage to, or assure appropriate access for Native Americans to, a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, pursuant to Section 5097.97. If the court finds that severe and irreparable damage will occur or that appropriate access will be denied, and appropriate mitigation measures are not available, it shall issue an injunction, unless it finds, on clear and convincing evidence, that the public interest and necessity require otherwise. The Attorney General shall represent the commission and the state in litigation concerning affairs of the commission, unless the Attorney General has determined to represent the agency against whom the commission's action is directed, in which case the commission shall be authorized to employ other counsel. In any action to enforce this subdivision, the commission shall introduce evidence showing that the cemetery, place, site, or shrine has been historically regarded as a sacred or sanctified place by Native American people and represents a place of unique historical and cultural significance to an Indian tribe or community.~~

~~(h) To request and utilize the advice and service of all federal, state, local, and regional agencies.~~

~~(i) To assist Native Americans in obtaining appropriate access to sacred places that are located on public lands for ceremonial or spiritual activities.~~

~~(j) To assist state agencies in any negotiations with agencies of the federal government for the protection of Native American sacred places that are located on federal lands.~~

~~(k) To mediate, upon application of either of the parties, disputes arising between landowners and known descendants relating to the treatment and disposition of Native American human burials, skeletal remains, and items associated with Native American burials.~~

~~The agreements shall provide protection to Native American human burials and skeletal remains from vandalism and inadvertent destruction and provide for sensitive treatment and disposition of Native American burials, skeletal remains, and associated grave goods consistent with the planned use of, or the approved project on, the land.~~

~~(l) To assist interested landowners in developing agreements with appropriate Native American groups for treating or disposing, with appropriate dignity, of the human remains and any items associated with Native American burials.~~

~~SEC. 3. Section 5097.96 of the Public Resources Code is amended to read:~~

~~5097.96. The commission may prepare an inventory of Native American sacred places that are located on public lands and shall review the current administrative and statutory protections accorded to these places. The commission shall submit a report to the Legislature no later than January 1, 1979, in which the commission shall report its findings as a result of these efforts and shall recommend those actions the commission deems necessary to preserve these sacred places and to protect the free exercise of the Native American religions.~~

~~SEC. 4. Section 21083.9 of the Public Resources Code is amended to read:~~

~~21083.9. (a) Notwithstanding Section 21080.4, 21104, or 21153, a lead agency shall call at least one scoping meeting for either of the following:~~

~~(1) A proposed project that may affect highways or other facilities under the jurisdiction of the Department of Transportation if the meeting is requested by the department. The lead agency shall call the scoping meeting as soon as possible, but not later than 30 days after receiving the request from the Department of Transportation.~~

1 ~~(2) A project of statewide, regional, or areawide significance.~~

2 ~~(b) The lead agency shall provide notice of at least one scoping~~
3 ~~meeting held pursuant to paragraph (2) of subdivision (a) to all of~~
4 ~~the following:~~

5 ~~(1) Any county or city that borders on a county or city within~~
6 ~~which the project is located, unless otherwise designated annually~~
7 ~~by agreement between the lead agency and the county or city.~~

8 ~~(2) Any responsible agency.~~

9 ~~(3) Any public agency that has jurisdiction by law with respect~~
10 ~~to the project.~~

11 ~~(4) Any organization or individual who has filed a written~~
12 ~~request for the notice.~~

13 ~~(c) For any entity, organization, or individual that is required~~
14 ~~to be provided notice of a lead agency public meeting, the~~
15 ~~requirement for notice of a scoping meeting pursuant to~~
16 ~~subdivision (b) may be met by including the notice of a scoping~~
17 ~~meeting in the public meeting notice.~~

18 ~~(d) A scoping meeting that is held in the city or county within~~
19 ~~which the project is located pursuant to the National~~
20 ~~Environmental Policy Act (42 U.S.C. Sec. 4321 et seq.) and the~~
21 ~~regulations adopted pursuant to that act shall be deemed to satisfy~~
22 ~~the requirement that a scoping meeting be held for a project subject~~
23 ~~to paragraph (2) of subdivision (a), if the lead agency meets the~~
24 ~~notice requirements of subdivision (b) or subdivision (c).~~